

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FREEDOM MORTGAGE CORPORATION,

Plaintiff,

-v-

MICHELLE HEIRS,

Defendant.

No. 19-CV-1273 (KMK)

ORDER

KENNETH M. KARAS, United States District Judge:

Before the Court is a motion to voluntarily dismiss the Complaint pursuant to Fed. R. Civ. P. 41(a)(2), vacate the Judgment of Foreclosure and Sale pursuant to Fed R. Civ. P. 60(b), and cancel the Notice of Pendency of Action pursuant to N.Y. C.P.L.R. § 6514(a). This Action was commenced by the filing of the Summons and Complaint on February 11, 2019, copies of which were served on Defendant. On July 6, 2020, the Court granted Plaintiff's unopposed Motion for Summary Judgment. On September 23, 2020, the Court entered a Judgment of Foreclosure and Sale pursuant to N.Y. R.P.A.P.L. § 1351 and § 1354. Thereafter, the Defendant paid off the loan, which settled the case, and nullified the Judgment of Foreclosure and Sale. Although the Court understands from Plaintiff that Defendant may not consent to this motion, she has not filed any submissions explaining the reasons why this Order should not be signed, as it plainly benefits her by vacating the Judgment of Foreclosure and Sale.

On these grounds, it is hereby:

ORDERED, ADJUDGED AND DECREED, that the Plaintiff's motion is granted; and
it is further

ORDERED, ADJUDGED AND DECREED, that the Judgment of Foreclosure and Sale entered on September 23, 2020 is vacated pursuant to Fed. R. Civ. P. 60(b); and it is further

ORDERED, ADJUDGED, AND DECREED, that the Referee who was appointed to sell the property at public auction pursuant to the Judgment of Foreclosure and Sale, Naomi R. Duker, Esq., is discharged and relieved of any and all obligations and requirements thereunder; and it is further

ORDERED, ADJUDGED, AND DECREED, that pursuant to N.Y. C.P.L.R. § 6514(a), the County Clerk of Westchester County is respectfully directed, upon payment of proper fees, if any, to cancel and discharge a certain Notice of Pendency filed in this Action on the February 15, 2019 and in the Office of the Clerk of the United State District Court for the Southern District of New York, and any other filing against the property known as 3 Prospect Drive, Yonkers, NY 10705, and said Clerk is further directed to enter upon the margin of the record of the same a Notice of Cancellation referring to this Order.

SO ORDERED.

Dated: April 17, 2024
White Plains, New York



KENNETH M. KARAS
United States District Judge